

AMENDED IN ASSEMBLY APRIL 5, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2813**

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**Introduced by Assembly Member Bloom**

February 19, 2016

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An act to amend Section 628 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL’S DIGEST

AB 2813, as amended, Bloom. Juvenile offenders: dual-status minors.

Existing law requires a probation officer, upon delivery of a minor who has been taken into temporary custody, to immediately investigate the circumstances of the minor and the facts surrounding the minor being taken into custody and to immediately release the minor to the custody of his or her parent, legal guardian, or responsible relative unless evidence before the court demonstrates that continuance in the home is contrary to the child’s ~~welfare, as specified.~~ *welfare, and one or more specified circumstances is present, including, among others, that the minor is destitute.*

This bill would ~~require a probation officer, upon delivery of a minor who has been taken into temporary custody and who is a dependent of the juvenile court, or who appears to come within the description of a dependent of the court, to immediately release the minor to the custody of the child welfare services department or his or her current foster parent or other caregiver, except as specified.~~ *delete several of those specified circumstances.* The bill would also prohibit the probation officer, when deciding whether to detain a minor who is *the subject of a petition to declare him or her a dependent of the court, juvenile court and who has been removed from the custody of his or her parent or*

*guardian by the juvenile court, from considering specified information, including, among others, the minor's status as a dependent of the juvenile court. The bill would require a probation officer, to immediately release that minor to the custody of the child welfare services department or his or her current foster parent or other caregiver, except as specified.* By increasing the duties on local child welfare services departments, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 628 of the Welfare and Institutions Code  
2 is amended to read:

3 628. (a) (1) Upon delivery to the probation officer of a minor  
4 who has been taken into temporary custody under the provisions  
5 of this article, the probation officer shall immediately investigate  
6 the circumstances of the minor and the facts surrounding his or  
7 her being taken into custody and shall immediately release the  
8 minor to the custody of his or her parent, legal guardian, or  
9 responsible relative unless it can be demonstrated upon the  
10 evidence before the court that continuance in the home is contrary  
11 to the minor's welfare and one or more of the following conditions  
12 exist:

13 ~~(A) The minor is in need of proper and effective parental care~~  
14 ~~or control and has no parent, legal guardian, or responsible relative;~~  
15 ~~or has no parent, legal guardian, or responsible relative willing to~~  
16 ~~exercise or capable of exercising that care or control; or has no~~  
17 ~~parent, legal guardian, or responsible relative actually exercising~~  
18 ~~that care or control.~~

19 ~~(B) The minor is destitute or is not provided with the necessities~~  
20 ~~of life or is not provided with a home or suitable place of abode.~~

21 ~~(C) The minor is provided with a home which is an unfit place~~  
22 ~~for him or her by reason of neglect, cruelty, depravity or physical~~

1 abuse by either of his or her parents, or by his or her legal guardian  
2 or other person in whose custody or care he or she is entrusted.

3 ~~(D)~~

4 (A) Continued detention of the minor is a matter of immediate  
5 and urgent necessity for the protection of the minor or reasonable  
6 necessity for the protection of the person or property of another.

7 ~~(E)~~

8 (B) The minor is likely to flee the jurisdiction of the court.

9 ~~(F)~~

10 (C) The minor has violated an order of the juvenile court.

11 ~~(G) The minor is physically dangerous to the public because of~~  
12 ~~a mental or physical deficiency, disorder or abnormality.~~

13 (2) The probation officer's decision to detain a minor who is a  
14 ~~dependent of the subject of a petition to declare him or her a~~  
15 ~~dependent of the juvenile court pursuant to Section 300 and who~~  
16 ~~has been removed from the custody of his or her parent or guardian~~  
17 ~~by the juvenile court shall not be based on any of the following:~~

18 (A) The minor's status as a dependent of the juvenile court.

19 (B) A determination that continuance in the minor's current  
20 placement is contrary to the minor's welfare.

21 (C) The child welfare services department's inability to provide  
22 ~~a placement.~~ *placement for the minor.*

23 ~~(3) Notwithstanding paragraph (1), upon delivery to a probation~~  
24 ~~officer of a minor who is a dependent of the juvenile court pursuant~~  
25 ~~to Section 300, or who appears to come within the description of~~  
26 ~~Section 300, and who has been taken into temporary custody under~~  
27 ~~the provisions of this article, the~~

28 (3) *The* probation officer shall immediately release ~~the a~~ minor  
29 *described in paragraph (2)* to the custody of the child welfare  
30 services department or his or her current foster parent or other  
31 caregiver unless it can be demonstrated upon the evidence before  
32 ~~the court that continued detention is a matter of immediate~~  
33 ~~necessity for the protection of the person of another.~~ *the probation*  
34 *officer determines that one or more of the conditions in paragraph*  
35 *(1) exist.*

36 (4) *This section does not limit a probation officer's authority*  
37 *to refer a minor to child welfare services.*

38 (b) If the probation officer has reason to believe that the minor  
39 is at risk of entering foster care placement as defined in paragraphs  
40 (1) and (2) of subdivision (d) of Section 727.4, the probation officer

1 shall, as part of the investigation undertaken pursuant to subdivision  
2 (a), make reasonable efforts, as described in paragraph (5) of  
3 subdivision (d) of Section 727.4, to prevent or eliminate the need  
4 for removal of the minor from his or her home.

5 (c) In any case in which there is reasonable cause for believing  
6 that a minor who is under the care of a physician or surgeon or a  
7 hospital, clinic, or other medical facility and cannot be immediately  
8 moved is a person described in subdivision (d) of Section 300, the  
9 minor shall be deemed to have been taken into temporary custody  
10 and delivered to the probation officer for the purposes of this  
11 chapter while he or she is at the office of the physician or surgeon  
12 or that medical facility.

13 (d) (1) It is the intent of the Legislature that this subdivision  
14 shall comply with paragraph (29) of subsection (a) of Section 671  
15 of Title 42 of the United States Code as added by the Fostering  
16 Connections to Success and Increasing Adoptions Act of 2008  
17 (Public Law 110-351). It is further the intent of the Legislature  
18 that the identification and notification of relatives shall be made  
19 as early as possible after the removal of a youth who is at risk of  
20 entering foster care placement.

21 (2) If the minor is detained and the probation officer has reason  
22 to believe that the minor is at risk of entering foster care placement,  
23 as defined in paragraphs (1) and (2) of subdivision (d) of Section  
24 727.4, then the probation officer shall conduct, within 30 days, an  
25 investigation in order to identify and locate all grandparents, adult  
26 siblings, and other relatives of the child, as defined in paragraph  
27 (2) of subdivision (f) of Section 319, including any other adult  
28 relatives suggested by the parents. The probation officer shall  
29 provide to all adult relatives who are located, except when that  
30 relative's history of family or domestic violence makes notification  
31 inappropriate, within 30 days of the date on which the child is  
32 detained, written notification and shall also, whenever appropriate,  
33 provide oral notification, in person or by telephone, of all the  
34 following information:

35 (A) The child has been removed from the custody of his or her  
36 parent or parents, or his or her guardians.

37 (B) An explanation of the various options to participate in the  
38 care and placement of the child and support for the child's family,  
39 including any options that may be lost by failing to respond. The  
40 notice shall provide information about providing care for the child,

1 how to become a foster family home or approved relative or  
2 nonrelative extended family member as defined in Section 362.7,  
3 and additional services and support that are available in  
4 out-of-home placements. The notice shall also include information  
5 regarding the Kin-GAP Program (Article 4.5 (commencing with  
6 Section 11360) of Chapter 2 of Part 3 of Division 9), the  
7 CalWORKs program for approved relative caregivers (Chapter 2  
8 (commencing with Section 11200) of Part 3 of Division 9),  
9 adoption and adoption assistance (Chapter 2.1 (commencing with  
10 Section 16115) of Part 4 of Division 9), as well as other options  
11 for contact with the child, including, but not limited to, visitation.  
12 When oral notification is provided, the probation officer is not  
13 required to provide detailed information about the various options  
14 to help with the care and placement of the child.

15 (3) The probation officer shall use due diligence in investigating  
16 the names and locations of the relatives pursuant to paragraph (2),  
17 including, but not limited to, asking the child in an age-appropriate  
18 manner about relatives important to the child, consistent with the  
19 child's best interest, and obtaining information regarding the  
20 location of the child's adult relatives.

21 (4) To the extent allowed by federal law as a condition of  
22 receiving funding under Title IV-E of the federal Social Security  
23 Act (42 U.S.C. Sec. 670 et seq.), if the probation officer did not  
24 conduct the identification and notification of relatives, as required  
25 in paragraph (2), but the court orders foster care placement, the  
26 probation officer shall conduct the investigation to find and notify  
27 relatives within 30 days of the placement order. Nothing in this  
28 section shall be construed to delay foster care placement for an  
29 individual child.

30 SEC. 2. To the extent that this act has an overall effect of  
31 increasing the costs already borne by a local agency for programs  
32 or levels of service mandated by the 2011 Realignment Legislation  
33 within the meaning of Section 36 of Article XIII of the California  
34 Constitution, it shall apply to local agencies only to the extent that  
35 the state provides annual funding for the cost increase. Any new  
36 program or higher level of service provided by a local agency  
37 pursuant to this act above the level for which funding has been  
38 provided shall not require a subvention of funds by the state nor

- 1 otherwise be subject to Section 6 of Article XIII B of the California
- 2 Constitution.

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